

PUBLIC CHAPTER NO. 461

HOUSE BILL NO. 1433

By Representatives Mike Turner, Briley

Substituted for: Senate Bill No. 1391

By Senator Haynes

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 4; Title 7, Chapter 53 and Title 7, Chapter 88, relative to governmental functions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-4-101, is amended by adding the following language as a new subdivision:

(11) Terms used in this chapter that are not otherwise defined shall have the same meaning ascribed to them in chapter 88 of this title 7.

SECTION 2. Tennessee Code Annotated, Section 7-4-102(b), is amended by designating the existing language as subdivision (b)(1).

SECTION 3. Tennessee Code Annotated, Section 7-4-102(b), is further amended by adding the following new language, to be designated as subdivisions (b)(2) and (b)(3):

(2) The metropolitan council in a county having a metropolitan form of government which has a population in excess of five hundred thousand (500,000) according to the 2000 federal census or any subsequent federal census is hereby authorized to impose an additional one-percent increase to the privilege tax authorized pursuant to subdivision (b)(1). Such additional one percent (1%) increase to the privilege tax may be imposed throughout such county or only within a tourist development zone created within such county. Except as otherwise provided in subdivision (b)(3), the proceeds from such tax shall be retained by the metropolitan government and distributed in accordance with § 7-4-110(b). The tax so imposed is a privilege tax upon the transient occupying the room of a hotel located within the territory of the metropolitan government or such tourist development zone. Such ordinance shall include provisions to reflect the intent and effect of this subdivision (b)(2).

(3) If there has been designated within such county a secondary tourist development zone, then all of the proceeds of the additional one-percent increase to the privilege tax authorized pursuant to subdivision (b)(2) which are derived from such secondary tourist development zone

shall be deposited in the general fund of the county in which such secondary tourist development zone is located.

SECTION 4. Tennessee Code Annotated, Section 7-4-110, is amended by deleting the section in its entirety and by substituting instead the following:

§ 7-4-110.

(a) Except as otherwise provided in subsection (f), until the metropolitan council in a county having a metropolitan form of government which has a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census approves an ordinance to impose an additional one-percent increase to the privilege tax authorized pursuant this act, the proceeds from the tax authorized to be levied in § 7-4-102(a)(1) shall be retained by the metropolitan government and distributed as follows:

(1) One-third (1/3) of the proceeds shall be used for the direct promotion of tourism;

(2) One-third (1/3) of the proceeds shall be used for tourist related activities; and

(3) One-third (1/3) of the proceeds shall be deposited in the general fund.

(b) Except as otherwise provided in subsection (f), when the metropolitan council in a county having a metropolitan form of government which has a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census approves an ordinance to impose an additional one-percent increase to the privilege tax authorized pursuant to this act, the proceeds from the tax authorized to be levied pursuant to this chapter, other than the tax described in Section 7-4-102(c), shall be retained by the metropolitan government and distributed as follows:

(1) One-third (1/3) of the proceeds in its entirety shall be used for the direct promotion of tourism;

(2) One-third (1/3) of the proceeds in its entirety shall be maintained in a reserve fund to be used exclusively for the purpose of modifying, constructing, financing and operating a convention center;

(3) One-sixth (1/6) of the proceeds shall be used for tourist related activities which may include funding a convention center; and

(4) One-sixth ($1/6$) of the proceeds shall be deposited in the general fund of the metropolitan government.

(c) If the total tax collections received pursuant to this section and dedicated to the purposes contained in subsections (b)(1), (b)(2) and (b)(3) exceed the amounts necessary to fund the obligations thereunder, the excess shall be placed in a reserve fund and expended only for tourist related activities.

(d) Until the metropolitan council in a county having a metropolitan form of government which has a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census approves an ordinance to impose an additional one-percent increase to the privilege tax authorized pursuant to this act, the proceeds from the tax authorized to be levied in § 7-4-102(a)(2) shall be retained by the metropolitan government having a population in excess of one hundred thousand (100,000), according to the 1990 federal census or any subsequent federal census, and shall be used solely for the direct promotion of tourism.

(e) The proceeds from the tax authorized by § 7-4-102(c) shall be retained by the collecting municipality and used exclusively for tourist related activities within such municipality.

(f) If there has been designated within such county a secondary tourism development zone, then one-third ($1/3$) of the proceeds of the tax authorized to be levied in § 7-4-102(a)(1) and all of the proceeds of the tax authorized to be levied in § 7-4-102(a)(2) which are derived from such secondary tourism development zone shall be paid to the county for deposit in its general fund, but only to the extent that the same exceeds one-third ($1/3$) of the proceeds of the tourist accommodation tax from such secondary tourism development zone for the fiscal year ending June 30, 2006, increased by three percent (3%) for each fiscal year thereafter (i.e., in fiscal year 2007, one hundred three percent (103%) of such proceeds for fiscal year 2006; in fiscal year 2008, one hundred three percent (103%) of the amount so calculated for fiscal year 2007; etc.).

(g) If there has been designated within such county a secondary tourism development zone, until the metropolitan council approves an ordinance to impose an additional one-percent (1%) increase to the privilege tax authorized pursuant to this act, the metropolitan council may by resolution authorize one-third ($1/3$) of the proceeds of the tax authorized to be levied in § 7-4-102(a)(1) and all of the proceeds of the tax authorized to be levied in § 7-4-102(a)(2) which are derived from such secondary tourism development zone to be paid to the county for deposit in its general fund, but only to the extent that the same exceeds one-

third (1/3) of the proceeds of the tourist accommodation tax from such secondary tourism development zone for the fiscal year ending June 30, 2006, increased by three percent (3%) for each fiscal year thereafter (i.e., in fiscal year 2007, one hundred three percent (103%) of such proceeds for fiscal year 2006; in fiscal year 2008, one hundred three percent (103%) of the amount so calculated for fiscal year 2007, etc.).

SECTION 5. Tennessee Code Annotated, Section 7-53-101(11)(B)(i), is amended by inserting the following language after the word "hotel" in each place that such word appears:
including any conference or convention center facilities related to such hotel,

SECTION 6. Tennessee Code Annotated, Section 7-53-302(a)(4), is amended by deleting the semi-colon and inserting the following language at the end of such subsection:

nor shall this proviso apply to any hotel which contains conference or convention center facilities containing at least seventy-five thousand (75,000) square feet;

SECTION 7. Tennessee Code Annotated, Section 7-88-103(4), is amended by changing the semi-colon to a comma at the end of the subdivision and adding the following language:

including a county with a metropolitan form of government;

SECTION 8. Tennessee Code Annotated, Section 7-88-103(5), is amended by inserting immediately after the language "title 12, chapter 10;" the language "or an industrial development corporation organized pursuant to the provisions of title 7, chapter 53".

SECTION 9. Tennessee Code Annotated, Section 7-88-103(7), is amended by deleting the language "or title 12, chapter 10," and by substituting instead the language ", title 12, chapter 10 or title 7, chapter 53,".

SECTION 10. Tennessee Code Annotated, Section 7-88-103(7), is further amended by changing the comma "," after the language "that requires" to a colon ":" and adding the language "(A)"; and by changing the period at the end of sentence containing such language to a comma and by adding the following:

or

(B) On or after January 1, 2007 a local investment of public or private funds of not less than two hundred million dollars (\$200,000,000);

SECTION 11. Tennessee Code Annotated Section 7-88-103, is amended by adding the following language as a new subdivision:

(10) "Secondary tourist development zone" means a tourist development zone that at the time of its creation is located more than three (3) miles from the county courthouse.

SECTION 12. Tennessee Code Annotated Section 7-88-106(b), is amended by deleting the subsection in its entirety and by substituting instead the following:

(b) Except as otherwise provided in subsection (c), tax revenue distributed to the municipality shall be for the exclusive use of the municipality or the public authority formally designated by the municipality, in accordance with the provisions of title 9, chapter 21, title 12, chapter 10, or title 7, chapter 53 for payment of the cost of the qualified public use facility, including interest and debt service on any indebtedness related to the qualified public use facility, or the lease payments with respect to any public use facility, and shall apply to only one (1) tourism development zone per municipality. The apportionment and payment shall be made by the department of revenue to the municipality within ninety (90) days of the end of each fiscal year for which the municipality is entitled to receive an allocation and payment pursuant to this chapter. Notwithstanding the provisions of this subsection (b), a county having a population of more than five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, shall not be limited to one (1) tourist development zone eligible to receive a distribution of tax revenue.

SECTION 13. Tennessee Code Annotated Section 7-88-106, is amended by adding the following language as a new subsection:

(c) If there has been designated within such municipality a secondary tourist development zone, then the incremental increase in state and local sales and use tax revenue derived from the sale of goods, products and services within such secondary tourist development zone in excess of base tax revenues, excluding any increase in the state rate for sales and use tax, shall be apportioned and distributed to the municipality for deposit in its general fund. Apportionment and distribution of such taxes shall continue until the earliest of:

(1) The first date on which the indebtedness of the municipality or public authority related to the qualified public use facility located within the secondary tourist development zone has been paid in full;

(2) The date on which the cumulative amount apportioned and distributed equals the cumulative amount of principal and interest on indebtedness of the municipality or public authority related to the qualified public use facility located within the secondary tourist development zone;

(3) The date on which the qualified public use facility ceases to be a qualified, public use facility; or

(4) Thirty (30) years from the date it is reasonably anticipated that the facility will commence operations as a public use facility.

SECTION 14. Tennessee Code Annotated Section 7-88-108(d), is amended by deleting the subsection in its entirety and by substituting the following:

(d) Except as otherwise provided in subsection (f), the apportionment and distribution of state and local sales and use taxes to the municipality, as provided in this chapter, shall commence at the beginning of the fiscal year in which the state building commission approves the application, or the beginning of the fiscal year in which the facility opens for public use, whichever is later.

SECTION 15. Tennessee Code Annotated Section 7-88-108, is amended by adding the following language as a new, appropriately designated subsection:

(f) If there has been designated within such municipality a secondary tourist development zone, then the apportionment and distribution of state and local sales and use taxes to the municipality, as provided in § 7-88-106(c), shall commence at the beginning of the fiscal year in which the state building commission approves the application and the public authority has incurred debt to finance construction of the qualified public use facility within such zone, whichever is later.

SECTION 16.

(a) For the purposes of this section, unless the context otherwise requires:

(1) "Metropolitan government" means a county having a metropolitan form of government which has a population in excess of five hundred thousand (500,000) according to the 2000 federal census or any subsequent federal census;

(2) "Minority owned business" means a business that is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business and who is impeded from normal entry into the economic mainstream because of:

(A) Past practices of discrimination based on race, religion, ethnic background, or sex;

(B) A disability as defined in §4-26-102; or

(C) Past practices of racial discrimination against African- Americans; and

(3) "Person" means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(b) Any person, in soliciting bids for the construction of any conference or convention center facilities located in a secondary tourist development zone within the territory of a metropolitan government and receiving any benefit, directly or indirectly, from public financing pursuant to the provisions of this act, shall actively solicit bids from minority owned businesses. Such person shall strive to maximize participation of minority owned businesses through both prime and second tier business contracting opportunities.

(c)

(1) The metropolitan government shall monitor the results of minority owned business participation. Such government shall periodically investigate to ascertain whether minority owned business participation is being achieved at a level contemplated pursuant to subsection (b) of this Section and shall report such information to the comptroller of the treasury in the manner proscribed in subdivision (2) of this subsection.

(2) The metropolitan government shall prepare and submit an annual report entitled "The Conference and Convention Center Facilities Compliance Report" which shall be submitted to the comptroller of the treasury. Such report shall include:

(A) Data on the race, religion, ethnic background and sex of each person employed in the construction of any conference or convention center facilities located in a secondary tourist development zone within the territory of a metropolitan government and receiving any benefit, directly or indirectly, from public financing pursuant to the provisions of this act;

(B) Data on the actual expenditures to minority owned businesses employed in the construction of any conference or convention center facilities located in a secondary tourist development zone within the territory of a metropolitan government and receiving any benefit, directly or indirectly, from public financing pursuant to the provisions of this act; and

(C) Data summarizing the findings of all periodic investigations conducted in accordance with subdivisions (1) of this subsection.

(3) The comptroller of the treasury shall, upon receipt of the report from the metropolitan government, transmit a synopsis of the report to the chairs and membership of the senate and house state and local government committees.

SECTION 17. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 24, 2007


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 19th day of June 2007


PHIL BREDESEN, GOVERNOR